

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

OFFICE OF ADMINISTRATIVE LAW JUDGES  
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AUG 26 1986

SECRETARY OF LABOR, : CIVIL PENALTY PROCEEDING  
MINE SAFETY AND HEALTH :  
ADMINISTRATION (MSHA), : Docket No. KENT 85-140-M  
Petitioner : A. C. No. 15-00112-05504  
v. : Clover Bottom Underground  
M. A. WALKER COMPANY, INC., :  
Respondent :

DECISION

Appearances: Mary Sue Ray, Esq., Office of the Solicitor,  
U.S. Department of Labor, Nashville, Tennessee,  
for Petitioner;  
Lyle A. Walker, President, M. A. Walker Company,  
Inc., McKee, Kentucky, for Respondent.

Before: Judge Maurer

This case is before me upon the petition for civil penalty filed by the Secretary of Labor pursuant to section 105(d) of the Federal Mine Safety and Health Act of 1977, 30 U.S.C. § 801, et seq., the "Act," charging the M. A. Walker Company, Inc. (Walker) with three violations of regulatory standards. The issues before me are whether Walker has committed the violations as alleged and, if so, whether those violations were of such a nature as could have significantly and substantially contributed to the cause and effect of a mine safety or health hazard, i.e., whether the violations were "significant and substantial". If violations are found) it will also be necessary to determine the appropriate civil penalty to be assessed in accordance with the criteria set forth in section 110(i) of the Act. Pursuant to notice, the case was heard in Berea, Kentucky, on June 24, 1986.

Citation No. 2247898 alleges a "significant and substantial" violation of the standard at 30 C.F.R. § 57.3022 and charges as follows:

Ground conditions along haulageways and travelways was not scaled. This include the three entries to the mine. Loose rock and frozen ice was observed on roof and ribs. The employee enter the mine through these portals. Customer truck go in and out through these portals.